

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

VINCENT E. CIRRITTO, II and
JULIE A. CIRRITTO,

IN BANKRUPTCY
NO. 13-36728-cgm
Chapter 13

**NOTICE OF MOTION
TO VACATE STAY**

Debtors.

PLEASE TAKE NOTICE that upon the annexed application of Kalin Robertson, verified August 14, 2013 and the affirmation of Richard J. Miller, dated August 15, 2013, American Honda Finance Corporation (“AHFC”) by its attorney, will move this Court at United States Bankruptcy Court, 355 Main Street, 2nd Floor, Poughkeepsie, New York on September 17, 2013 at 10:50 o’clock in the forenoon, or as soon thereafter as counsel can be heard, for an order modifying the stay granted pursuant to 11 U.S.C., Section 362 to permit AHFC to retain possession of and sell the collateral described in the annexed application pursuant to its duly perfected security interest, and for such other and further relief as may seem just and proper; and further

PURSUANT TO BANKRUPTCY RULE 9014, IF YOU INTEND TO OPPOSE THE MOTION, YOU MUST SERVE ON THE MOVANT’S COUNSEL, MILLER & DUBUC, AND FILE WITH THE CLERK OF THE BANKRUPTCY COURT, WRITTEN OPPOSITION TO THE MOTION NOT LATER THAN THREE (3) BUSINESS DAYS PRIOR TO THE

RETURN DATE OF THIS MOTION.

Dated: Albany, New York
August 15, 2013

MILLER & DUBUC
A Professional Corporation

By: /s/ Richard J. Miller
Richard J. Miller #505561
Attorney for Movant
14 Corporate Woods Boulevard
Albany, New York 12211
Phone: (518) 465-7591

TO: LEWIS D. WROBEL, ESQ.
Attorney for Debtors
201 South Avenue, Suite 506
Poughkeepsie, New York 12601

JEFFREY L. SAPIR, ESQ.
Trustee
399 Knollwood Road, Suite 102
White Plains, New York 10603

UNITED STATES TRUSTEE
74 Chapel Street
Albany, New York 12207

VINCENT E. CIRRITTO, II
JULIE A. CIRRITTO
Debtors
62 Huckleberry Lane
Hopewell Junction, New York 12533

/tb

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

VINCENT E. CIRRITTO, II and
JULIE A. CIRRITTO,

Debtors.

IN BANKRUPTCY
NO. 13-36728-cgm
Chapter 13

**APPLICATION IN
SUPPORT OF MOTION
TO VACATE STAY**

TO: HON. CECELIA G. MORRIS, Bankruptcy Judge.

I, **Kalin Robertson**, a Bankruptcy Specialist with American Honda Finance Corporation (hereinafter "Movant"), hereby declare:

BACKGROUND INFORMATION

1. The debtors herein filed a petition under Chapter 13 of the Bankruptcy Code on July 30, 2013.
2. This is an application to obtain relief from the stay for cause pursuant to 11 U.S.C. 362 by reason of the debtors' default in paying for certain motor vehicle, as required pursuant to the terms of two retail installment contracts held by Movant.
3. On or about August 21, 2010, applicant financed the purchase of a certain 2006 Acura MDX (VIN: 2HNYD188X6H534080) pursuant to the attached retail installment contract signed by the debtors. The contract was assigned to Movant by the dealer. Copies of the contract (including the assignment made) and proof of recorded lien are annexed hereto and marked Exhibits "A" and "B".

DEBT/VALUE REPRESENTATION

4. The account is in default as it is past due for the May through July, 2013 installments, resulting in accrued arrears of \$1033.88 as of August 13, 2013. To be noted is that the debtors' Chapter 13 plan provides for the surrender of the vehicle to AHFC. As a result, cause exists pursuant to 11 U.S.C. 362(d)(1) to entitle Movant to relief from the stay.
5. The present balance due on the account is \$12,417.05 as of August 13, 2013 and the approximate value of the vehicle in its present condition is \$12,000.00. A copy of the relevant NADA page is attached hereto and marked Exhibit "C".

6. Movant does not have, and has not been offered adequate protection for its interest in the collateral described in the attached contract.

7. Movant shall account to the Trustee for any surplus money received from the sale of its collateral.

RELIEF SOUGHT

8. Movant prays for the entry of an order modifying the stay granted pursuant to 11 U.S.C., Section 362 to permit it to retain possession of and sell the collateral described herein pursuant to its duly perfected security interest in the unit, and that it have such other and further relief as to the Court may seem just and proper.

9. No previous application has been made for the relief requested herein.

CERTIFICATION FOR BUSINESS RECORDS

10. I certify that the information provided in this application and the exhibits attached hereto are derived from records that were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters, were kept in the course of the regularly conducted activity, and were made by the regularly conducted activity as a regular practice; and I further certify that copies of any transactional documents attached to this application are true and accurate copies of the original documents.

DECLARATION

I, **Kalin Robertson**, with American Honda Finance Corporation, hereby declare pursuant to 28 U.S.C. Section 1746 under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based upon personal knowledge of the Movant's books and business records.

Executed at Irving, Texas on this day of August 14, 2013

AMERICAN HONDA FINANCE CORPORATION

By: /s/ Kalin Robertson
Kalin Robertson
Bankruptcy Specialist
3625 W. Royal Lane, Suite 200
Irving, Texas 75063

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SOUTHERN DISTRICT OF NEW YORK

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IN BANKRUPTCY
NO: 13-36728
Chapter 13

VINCENT E. CIRRITTO, II and
JULIE A. CIRRITTO,

AFFIDAVIT OF SERVICE

Debtors.

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

THERESA BURNS, being duly sworn, deposes and says:

I am employed by the attorney for American Honda Finance Corporation. I am over 18 years of age and not a party to this action. On August 15, 2013, I electronically filed the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filings to the following, and, I hereby certify that I have mailed by the United States Postal service the document to the following:

LEWIS D. WROBEL, ESQ.

Attorney for Debtors
201 South Avenue, Suite 506
Poughkeepsie, New York 12601

JEFFREY L. SAPIR, ESQ.

Trustee
399 Knollwood Road, Suite 102
White Plains, New York 10603

UNITED STATES TRUSTEE

74 Chapel Street
Albany, New York 12207

VINCENT E. CIRRITTO, II

JULIE A. CIRRITTO

Debtors
62 Huckleberry Lane
Hopewell Junction, New York 12533

/s/ Theresa Burns

THERESA BURNS

Sworn to before me this
15th day of August, 2013

/s/ John M. Dubuc

NOTARY PUBLIC

John M. Dubuc
02DU6038123
Expires: 3/6/14